IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17601 of 1998

Between:

Md. Mahmood S/o Md. Osman
R/o Yadagirigutta, Nalgonda District

..... PETITIONER

AND

1 A.P.State Road Transport Corporation, Rep. by its Managing Director, Mushirabad, Hyderabad-20.
2 The Regional Manager, A.P.S.R.T.C., Nalgonda.
3 The Depot Manager, A.P.S.R.T.C., Yadagirigutta, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the respondents and issue an appropriate Writ, Order or Direction, particularly one in the nature of Writ of Mandamus, declaring that the Order passed by the 1st respondent in proceedings No. P2/544(7)/96-PO(IV) dated 23-4-98, served on the petitioner on 12-5-98 as illegal, unjust, contrary to law, arbitrary, discriminatory, in violation of principles of natural justice and violation of Articles 14, 16 & 21 of the Constitution of India; and grant all consequential benefits.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1 to 3: (SC FOR A.P.S.R.T.C.) Mr.K.HARINATH

The Court made the following :

ORDER:

This writ petition is filed seeking a *Mandamus* declaring the order passed by the first respondent in proceedings No.P2/544(7)/96-PO(IV), dated 23.4.1998, as arbitrary and illegal, and to pass consequential orders.

It is the case of the petitioner that he joined the service of the respondents-Corporation as driver on 23.3.1986 and his services were regularized with effect from 2.9.1986. While so, there was a revision in the pay scales in the month of April 1994 with effect from 1.4.1993. The petitioner exercised option to come into the revised pay scales and according to him he gave his willingness to come on to the pay scales with effect from 1.9.1993. However, it was found that the option form was altered by altering the date as 1.4.1993. By virtue of this alteration in the option form, the petitioner is deprived of one increment and the employees, who joined along with him are drawing more salary than the petitioner. The respondents-Corporation have fixed the date as 1.4.1993 in the revised pay scales instead of 1.9.1993. In fact, on account of revised pay scales, the petitioner is entitled for one additional increment because his date of regularization was 2.9.1986. The petitioner filed a representation before the third respondent, which was forwarded to the second and first respondents on 20.10.1995 and 15.2.1996 respectively. The third respondent had recommended and forwarded the application of the petitioner and made an endorsement that it is a genuine case. In spite of the recommendation made by the third respondent, the first and second respondents have rejected the claim of the petitioner through the impugned proceedings. Hence, this writ petition.

A detailed counter affidavit has been filed on behalf of the respondents-Corporation. It is stated that the pay scales of all the employees of respondents-Corporation was revised by its circular No.PD-28/94, dated 29.4.1994 with effect from 1.4.1993. According to para 3 of the said circular, all the employees holding posts in the

Corporation as on 31.3.1993 and continued on 1.4.1993 have the right to opt to draw the pay in the revised scales of pay 1993 either from 1.4.1993 or before 31.3.1994. As per the provisions, the petitioner has given his option to come on to the revised scales of pay of 1993 with effect from 1.4.1993 and as per the option exercised by the petitioner, his pay was fixed at Rs.2295/- with effect from 1.4.1993, duly allowing the annual increment with effect from 1.9.1993 raising his pay from 2295/- to Rs.2350/-. The pay fixation form was compiled at Depot level and audited at Regional level and the date of option was clearly mentioned as 1.4.1993 in the pay fixation form by the compiling unit and the pay of the petitioner was also audited at the Regional office. If the employee had not opted for 1.4.1993, the same should have been entered in the pay fixation form and his pay should have been fixed accordingly. Therefore, the contention of the petitioner that he has opted for 1.9.1993 is not correct. Further, the matter was enquired into and the disciplinary action is being initiated on the head clerk of Yadagirigutta Deopt who was found responsible for alteration of date of option form of the petitioner. Since the petitioner's pay was fixed as per the option exercised by him, he cannot compare himself with his juniors, who have given different date of options. In the counter, the enquiry conducted in this regard is also extracted and the same reveals that there was manipulation of the date of option by the head clerk of Yadagirigutta Depot.

I have given my earnest consideration to the respective contentions of both the counsel on either side and gone though the material made available on record.

The alterations made in the option form is not denied. In fact, it is the complaint made by the petitioner that there was some alteration as to the date of option given by the petitioner to come on to the revised pay scales of 1993. An enquiry was conducted and it was found that the head clerk of Yadagirigutta Depot was responsible for altering the date of option, which is advantageous to the petitioner. In fact, the option form was compiled at depot level and thereafter the same was audited by the Regional office and then the pay of the petitioner was fixed. The complaint made by the petitioner as to the alteration of the date in the option form seems to be an afterthought only to gain advantage as found by the enquiry officer. As such I find that the impugned order passed by the respondents-Corporation does not suffer from any infirmities requiring interference of this Court under Article 226 of Constitution of India.

Accordingly, the writ petition is dismissed. No costs.

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C.V. RAMULU,J

15th JUNE, 2005

Tsr.

To,

1 The Managing Director, A.P.State Road Transport Corporation,
Mushirabad, Hyderabad-20.
2 The Regional Manager, A.P.S.R.T.C.,
Nalgonda.
3 The Depot Manager, A.P.S.R.T.C.,
Yadagirigutta, Nalgonda District.

4. 2 CD copies.